

1 A. ORS requested DIUC provide details on the work required to restore water and
2 sewer service to the premises and an estimated date the customer could expect service to
3 be restored.

4 Q. DID ORS RECEIVE A RESPONSE FROM DIUC REGARDING MR. HALWIG'S
5 COMPLAINT?

6 A. Yes. On November 14, 2016, DIUC informed ORS that Hurricane Matthew
7 damaged the water and sewer main infrastructure that provided service to Driftwood
8 Cottage Lane and that the surrounding area where the mains were located had been eroded
9 and required repair. DIUC's response indicated that it was not possible to re-install the
10 mains in the same location unless and until the roadway and surrounding area were restored
11 and protected from future erosion. DIUC's response indicated the Company was
12 investigating other options to provide service to Driftwood Cottage Lane.

13 Q. DID DIUC PROVIDE AN ESTIMATED TIMEFRAME FOR WATER AND
14 SEWER RESTORATION TO THE HOMES ON DRIFTWOOD COTTAGE LANE?

15 A. No. In its response to ORS, DIUC indicated it was impossible to provide specific
16 dates for restoration of services using the current rights-of-way as the reinstallation was
17 dependent upon road and ground restoration to be completed by the appropriate municipal
18 authorities.

19 Q. WHAT INFORMATION WAS PROVIDED TO MR. HALWIG BY ORS IN
20 RESPONSE TO MR. HALWIG'S COMPLAINT?

21 A. On December 2, 2016, ORS shared with Mr. Halwig the response received by ORS
22 from DIUC. In addition, ORS informed Mr. Halwig that Commission regulations, which

THE OFFICE OF REGULATORY STAFF
1401 Main Street, Suite 900
Columbia, SC 29201

1 address service interruptions and restoration of service, do not indicate a specific timeframe
2 for restoration of water and sewer service after a hurricane. ORS informed Mr. Halwig of
3 his right to file his complaint at the Commission if he was not satisfied with the results of
4 the ORS investigation. See Direct Exhibit DMH-3 for ORS's correspondence with Mr.
5 Halwig.

6 Q. DID DIUC PROVIDE ORS WITH ADDITIONAL INFORMATION AND
7 UPDATES ON THE PROGRESS TO RESTORE SERVICE TO DRIFTWOOD
8 COTTAGE LANE?

9 A. Yes. From December 2016 through March 2017, DIUC provided updates regarding
10 DIUC's efforts to restore water and sewer service to Driftwood Cottage Lane. DIUC
11 provided Mr. Halwig an update via letter on January 27, 2017. In March 2017, and based
12 on the updates received from DIUC, it appeared to ORS that Mr. Halwig and DIUC were
13 working cooperatively to facilitate access to 46 Driftwood Cottage Lane through new
14 rights-of-way.

15 Q. WHEN DID ORS RECEIVE A COPY OF THE CUSTOMER SERVICE
16 AGREEMENT BETWEEN THE CUSTOMERS AND DIUC?

17 A. DIUC provided ORS an unexecuted copy of the Customer Service Agreement on
18 January 31, 2018. ORS received an executed copy of the Customer Service Agreement on
19 August 5, 2018.

20 Q. DOES THE CUSTOMER SERVICE AGREEMENT PROVIDE FOR THE
21 INSTALLATION OF WATER AND SEWER INFRASTRUCTURE TO SERVICE
22 36 AND 46 DRIFTWOOD COTTAGE LANE?

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1 **A.** Yes. The Customer Service Agreement between the Customers and DIUC details
2 the arrangement between the Customers and DIUC to restore service to Driftwood Cottage
3 Lane. Specifically, DIUC agreed to provide service after the Customers had the mains
4 installed at their cost.

5 **Q.** **IN 2018, DID THE CUSTOMERS CONTACT ORS REGARDING THE**
6 **RESTORATION OF SERVICE TO DRIFTWOOD COTTAGE LANE?**

7 **A.** Yes. Mr. Jack Smith, an attorney from Nelson Mullins Riley & Scarborough LLP,
8 contacted ORS on August 3, 2018, on behalf of the Customers. Mr. Smith asked ORS
9 Consumer Services questions about DIUC's ability to deny water and sewer service to the
10 Customers due to a dispute between the Customers and DIUC related to payment of CIAC
11 tax obligations and attorney's fees. Mr. Smith followed his telephone call to ORS
12 Consumer Services with an e-mail to ORS on August 5, 2018, which contained detail of
13 his questions and inquired if ORS had to approve restoration of water and sewer service.

14 On August 6, 2018, ORS Consumer Services responded via telephone call to Mr.
15 Smith by informing him the tax question related to CIAC was pending in Commission
16 Docket No. 2017-381-A. ORS informed Mr. Smith that ORS did not have to approve
17 restoration of service. In addition, ORS Consumer Services referred Mr. Smith to
18 Commission regulations 103-535.F and 103-735.F which state water and sewer service
19 may be refused "for failure of the customer to fulfill his contractual obligations for service
20 and/or facilities subject to regulation by the commission."

21 **Q.** **PLEASE PROVIDE THE DETAILS OF ANY SUBSEQUENT INTERACTIONS**
22 **BETWEEN THE CUSTOMERS AND ORS AFTER AUGUST 6, 2018.**

THE OFFICE OF REGULATORY STAFF
1401 Main Street, Suite 900
Columbia, SC 29201

1 A. On behalf of the Customers, Mr. Smith contacted ORS via letter on August 10,
2 2018, with questions regarding whether the proposed 33.24% tax on the CIAC must be
3 paid by the Customers to DIUC and whether DIUC can deny the Customers water and
4 sewer service until the tax obligation on CIAC is paid. *See* Direct Exhibit DMH-4. ORS
5 responded to Mr. Smith in writing on August 15, 2018. *See* Direct Exhibit DMH-5.

6 On September 11, 2018, Mr. Smith contacted ORS via letter with additional
7 questions as to which party (the Customers or DIUC) is financially responsible for
8 replacement of mains and associated legal fees and the applicability of Commission
9 regulations 103-540 and 103-740. *See* Direct Exhibit DMH-6. ORS forwarded Mr. Smith's
10 inquiry to DIUC for a response on September 25, 2018. DIUC provided a written response
11 to ORS on October 4, 2018. *See* Direct Exhibit DMH-7. In addition, ORS received a copy
12 of the South Carolina Department of Health and Environmental Control permit to operate
13 on October 10, 2018. ORS provided Mr. Smith with the DIUC response and an update on
14 the restoration of service and the permit to operate on October 22 and 23, 2018 (via e-mail).
15 On November 16, 2018, the Customers filed a formal Complaint with the Commission.

16 Q. DID ORS OFFER TO PROVIDE INFORMAL MEDIATION SERVICES TO THE
17 CUSTOMERS AND DIUC?

18 A. Yes. On December 18, 2018, counsel for ORS offered to the attorneys for the
19 Customers and DIUC an opportunity for informal mediation. The ORS offer for mediation
20 was not accepted by either the Customers or DIUC.

21 2. Commission Regulations Related to Restoration of Water and Sewer Service

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1401 Main Street, Suite 900
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Office of Regulatory Staff
Daufuskie Island Utility Company, Inc.
Docket No. 2018-364-WS

Direct Exhibit DMH-1

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South Carolina Office of Regulatory Staff
1401 Main St. Suite 900 Columbia, SC 29201 Phone: 800-922-1531 Fax: 803-737-4750

Consumer Complaint/Inquiry Form

Please complete this form, save it to your computer and then send it to complaints@regstaff.sc.gov. A member of the SC Office of Regulatory Staff will be in contact with you to address your complaint or inquiry.

If your utility service is scheduled for disconnection, please call the ORS at 1-800-922-1531. Please fill out all fields marked with an asterisk*, as they are required.

Failure to complete required fields may cause a delay in responding to you.

Name*	<input type="text" value="John M. Halwig"/>	Date*	<input type="text" value="11/8/16"/>
Address*	<input type="text" value="46 Driftwood Cottage Lane"/>		
City*	<input type="text" value="Daufuskie Island"/>	ZIP Code*	<input type="text" value="29915"/>
Phone Number*	<input type="text" value="(404) 406-0416"/>	Email	<input type="text" value="JMHalwigMD@aol.com"/>
What utility/company is your complaint regarding?*	<input type="text" value="Daufuskie Island Utility Company"/>		
What is your account number?	<input type="text"/>		

Are you an authorized contact person for the account? ☒ Yes ☐ No

Please outline your complaint below. Be brief as the field is limited to 1000 characters. Further detail, if needed, can be gathered when a member of the ORS staff contacts you.*

I have requested specific information regarding the status of the Driftwood Cottage Lane water/sewer service and when service will be restored on 10/20/16 and again on 11/1/16. I have been advised that an outside contractor was retained to fix the sewer service but that there is not a specific date service will be restored. We have been without water/sewer service since Hurricane Matthew on 10/8/16 and have not been able to stay in the home.

To save or print the form, click on the Save/Print Form button below.

To save the form, choose Adobe PDF as your printer, then click print. This will bring up a menu asking where you want to save the document to your computer. Once you have saved the form, you can submit it through email or print it and fax or mail it to the ORS using the information listed at the top of this page.

[Save/Print Form](#)

Office of Regulatory Staff
Daufuskie Island Utility Company, Inc.
Docket No. 2018-364-WS

Direct Exhibit DMH-2

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Campbell, Chad

Subject: FW: Complaint received at ORS (John Halwig)

From: Campbell, Chad [mailto:ccampbe@regstaff.sc.gov]
Sent: Tuesday, November 08, 2016 4:23 PM
To: Guastella Admin <admin@guastella.com>
Cc: Hipp, Dawn <dhipp@regstaff.sc.gov>; Johnson, Sarah <sjohnson@regstaff.sc.gov>; Sharpe, April <asharpe@regstaff.sc.gov>; Morgan, Willie <wmorgan@regstaff.sc.gov>; mlg@guastella.com
Subject: Complaint received at ORS (John Halwig)

Carolyn,

The attached correspondence is sent pursuant to the duties and responsibilities of the Office of Regulatory Staff ("ORS") to investigate complaints and inquiries affecting the public interest as set forth in S.C. Code Ann. § 58-4-50 (2004 S.C. Act 175). The ORS has received a complaint from John Halwig at 46 Driftwood Cottage Lane, Daufuskie Island, S.C.

The ORS requests Daufuskie Island Utility Company's ("DIUC" or "Company") assistance to investigate and respond to the consumer's concerns regarding interruption of water and sewer services to his property. Mr. Halwig is requesting specific information regarding the restoration time of water and sewer services.

I understand from your e-mail to me on Monday, November 7, 2016 that there are two DIUC customers with no water or sewer service at this time. (Mr. Halwig at 46 Driftwood Cottage Lane and Mr. Noller at 36 Driftwood Cottage Lane). According to DIUC, the water and sewer lines broke due to Hurricane Matthew. According to your e-mail, the Company indicates they are working on a plan on how to run the lines due to the excessive erosion.

To investigate the consumer's complaint, ORS requests DIUC provide the following:

1. Specific details on the work that is required to restore water and sewer service to 46 Driftwood Cottage Lane and 36 Driftwood Cottage Lane.
2. Estimated date for restoration of water and sewer service.

Be advised, the ORS is reviewing the requirements in the following PSC Regulations regarding their applicability to the water and sewer interruptions at 46 Driftwood Cottage Lane and 36 Driftwood Cottage Lane.

103-714 Interruption of Service.

B. Each utility shall make all reasonable efforts to prevent interruptions of service and, when such interruptions occur, shall endeavor to re-establish service with the shortest possible delay consistent with the safety of its consumers and the general public. Scheduled interruptions shall always be preceded by adequate notice to all affected customers, and will be made at a time that will not cause unreasonable inconvenience to customers.

Interruptions of Service.

A. Each utility shall make reasonable efforts to avoid interruptions of service, but when interruptions occur, service shall be re-established within the shortest time practicable, consistent with considerations of safety.

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Direct Exhibit DMH-2

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Please provide response on or before Monday, November 14, 2016.

Should you have any questions, contact me via e-mail at ccampbe@regstaff.sc.gov or at 803-737-5194.

Thank You
Chad Campbell
Consumer Services
Office of Regulatory Staff

Office of Regulatory Staff
 Daufuskie Island Utility Company, Inc.
 Docket No. 2018-364-WS

Direct Exhibit DMH-3

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April B. Sharpe
 Manager of Consumer Services

December 2, 2016

Dr. John Halwig

Atlanta, Georgia 30309

RE: ORS File 2016-W-1682

Dear Dr. Halwig:

This letter is in response to your complaint filed at the Office of Regulatory Staff ("ORS") regarding Daufuskie Island Utility Company ("DIUC" or "Company"). In your complaint you state your property at 46 Driftwood Cottage Lane, Daufuskie Island, S.C. has been without water and sewer service since October 8, 2016 due to Hurricane Matthew. You are requesting DIUC provide a specific date that water and sewer service will be restored to the property.

The ORS contacted DIUC for assistance to investigate and respond to your complaint. According to DIUC, due to Hurricane Matthew, severe erosion occurred causing a wash out of the road and surrounding areas where the water and sewer mains were located. The water and sewer mains were destroyed and rendered unusable. DIUC states that the road and surrounding area will need to be restored and adequately protected from future erosion before the water and sewer mains can be reconstructed to provide service to this area.

DIUC states they are currently exploring other means of access to serve your property but have not obtained rights of way necessary to construct water and sewer infrastructure to serve your property. The Company states a specific date for restoration of water and sewer service to your property cannot be provided at this time.

ORS conducted a conference call with a representative from DIUC on December 1, 2016 and advised the Company of the following Public Service Commission ("PSC") Rules and Regulations:

PSC Wastewater and Water Regulations 103-540 and 103-740 state "Each utility, unless specifically relieved in any case by the commission from such obligation, shall operate

Office of Regulatory Staff
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and maintain in safe, efficient and proper conditions of all of its facilities and equipment used in connection with the services it provides to any customer up to and including the point of delivery from systems or facilities owned by the customer."

PSC Wastewater Regulation 103-555 (c), states "The utility shall be responsible for providing the location for the connection of the customer's service pipe to the utility's service pipe or the utility's main, whichever is applicable, at the utility's expense, and at no expense to the customer."

PSC Wastewater Regulation 103-570 (B) states "It shall be the obligation of each utility dependent upon its ability to procure and retain suitable facilities and rights for the construction and maintenance of the necessary system to furnish adequate sewerage service to customers in the area or territory in which it operates."

PSC Water Regulation 103-755, "When the utility renders temporary service to a customer, it may require that the customer bear all the cost of installing and removing the service in excess of any salvage realized."

Based on ORS's review, the Public Service Commission of South Carolina's rules and regulations do not identify a specific time period for water and sewer service restoration. ORS will maintain contact with DIUC in regard to their efforts to restore water and sewer service to your property.

If you are not satisfied with the response from the ORS's investigation, you have the right to file your complaint with the PSC. To file a complaint with the PSC, you must complete the PSC's complaint form available online at www.psc.sc.gov. The completed form must then be mailed to the PSC at 101 Executive Center Drive, Suite 100, Columbia, S.C. 29210

If you have any questions, please contact me at 1-800-922-1531, extension 75194, or via e-mail at ccampbe@regstaff.sc.gov.

Sincerely,



Chad Campbell
 Consumer Services
 Office of Regulatory Staff

cc: Mike Guastella, Guastella and Associates (VIA E-MAIL)
 Dawn Hipp, ORS Director, Utility Rates and Services
 Sarah Johnson, ORS, Director, Utility Services
 Willie Morgan, ORS, Director, Utility Rates
 April Sharpe, ORS, Manager, Consumer Services

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BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLIA
DOCKET NO. 2018-364

Stephen and Beverly Noller and)
Michael and Nancy Halwig,)
Complainants,)
v.)
Daufuskie Island Utility Co., Inc.,)
Respondent.)

REBUTTAL TESTIMONY OF
MICHAEL HALWIG
ON BEHALF OF COMPLAINANTS

- A. No, the word, on the page previous to the one you referenced, is clearly "suggested". The word "demand" is clearly not used looking at Page 6, line 26. More importantly, the idea of the relocation of the mains across the golf course was ignored by DIUC. Obviously having relocated a portion of the Driftwood Cottage Lane mains previously, and having them exposed by the hurricane, protecting what was there while an alternative site for relocation was pursued seemed a prudent thing to do to protect DIUC's equipment. Even its customers thought of that and suggested it too.
- Q. REGARDING PAGE 9, LINES 7-11, WHEN DID YOU SEE THE DECEMBER 10, 2015 LETTER REFERENCED IN THIS PART OF MR. QUASTELLA'S TESTIMONY?
- A. We did not see this until over a year later. Mr. Josey said he never received the December 10, 2015 letter in 2015², and by the time we did see it, the DIUC's refusal to do anything to help replace its equipment was well known.
- Q. IN REGARD TO TESTIMONY OF MR. GUASTELLA ON PAGE 11, LINES 11-14, REFERENCING THE REINSTALLATION OF MAINS "AT THAT LOCATION" DID YOU EVER HEAR OR READ DIUC TO SAY THAT IT WAS EXPLORING OR CONSIDERING ANOTHER LOCATION TO REPLACE THE MAINS?
- A. No. The Complainants suggested it but DIUC never showed any interest in replacing its mains before or after the damage from the hurricane. DIUC only stated that the mains would only be replaced by its customers. As it never took any action to relocate them, we were forced to undertake the utility's work to get our water back so we could use our homes.
- Q. IN REGARD TO THE TESTIMONY ON PAGE 12, LINES 16-24, THERE IS A REFERENCE TO THE INSTALLATION OF NEW UTILITY EASEMENTS THAT COULD BE ADEQUATELY PROTECTED FROM EROSION OR OTHER THREATS BUT THAT SUCH WAS LIKELY TO BE "VERY SHORT TERM". HAD YOU EVER HEARD DIUC USE THE REFERENCE TO SHORT TERM OR REASONABLY PERMANENT CUSTOMERS BEFORE YOU FILED YOUR COMPLAINT IN THIS MATTER?
- A. No. It appears that these ideas came to DIUC only after we challenged them for having forced us to install their replacement equipment or to abandon our homes as an alternative. We waited to file this Complaint until after the installation was complete and water and sewer service could actually be turned back on because we were concerned, as proved to be true, that DIUC would not do anything to help us or restore service until we paid for everything and paid its tax. The proposed Addendum by DIUC made that clear. Only after the ORS agreed that

² See Exhibit Complainants 00190, attached.

- Q. REGARDING THE STATEMENT OF ORS DIRECT TESTIMONY PAGE 13, LINES 11-13, HAVE YOU EVER HEARD OF A SITUATION WHERE A UTILITY REFUSED TO DO WHAT WAS NECESSARY TO RESTORE SERVICE TO A CUSTOMER?**
- A.** No, just like ORS Staff, which could not find any precedent in PSC's prior decisions concerning such a situation, we have never heard of any utility, of any sort, refusing to repair or replace its own equipment in order to provide service to existing customers. It seems clear from the continuing statement from DIUC that it would not be fair to other customers for it to pay for the replacement equipment is a clever way of saying that it would not be profitable. However, as a regulated utility for which any future rate making decision would have to be made by the Commission, it's unclear why DIUC would assume that the Commission would require the capital investment to be passed on to its other consumers in any particular way. It seems much more obvious that the concern is the that the Commission could determine that such expenditures should be absorbed by the company as a form of self-insured retention or reserve for such equipment loss. DIUC knew the area of Driftwood Cottage Lane was a potential threat to its equipment, just look at the testimony of Mr. Michael Guastella at Page 4, Lines 3 through 16; Page 5, lines 3 through 17. DIUC ignored the fact that the water main was exposed and made no plans to relocate it to prevent an interruption of service to its customers.
- Q. REGARDING THE TESTIMONY OF JOHN F. GUASTELLA, ON PAGE 2, LINES 14-19, THERE IS A STATEMENT THAT "THE DESTRUCTION OF THE ROADWAY IN WHICH MAINS WERE LOCATED ELIMINATED ANY POSSIBILITY OF REPLACING THE MAINS AND SAFELY PROVIDING CONTINUOUS UTILITY SERVICE TO THE REMAINING CUSTOMERS ALONG DRIFTWOOD COTTAGE LANE. IS THAT A TRUE STATEMENT?**
- A.** No. Replacement mains exist now connecting Driftwood Cottage Lane mains to those at Martinangel Road, installed by DIUC's customers without any experience whatever in such utility matters. We were able to obtain the easement, hire the engineers and surveyors, and hire and pay the contractors to do the work to replace the mains even without an agreement with DIUC in place. Obviously, there was a very real possibility of needing to replace the mains to provide continuous utility service along Driftwood Cottage Lane. DIUC just chose not to.
- Q. ON PAGE 3, LINE 7-10, MR. GUASTELLA STATES THAT "IT BECAME THE RESPONSIBILITY OF THE COMPLAINANTS TO ENTER INTO A MAIN OR SERVICE EXTENSION AGREEMENT". DID DIUC EVER EXPLAIN WHY THE REPLACEMENT MAIN WAS YOUR RESPONSIBILITY?**
- A.** No. DIUC refused to lift a finger to assist us, only gave us its demands that we would have to meet for any replacement mains before it would accept them and provide water and sewer service to our homes. Its only statement offered in

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BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLIA
DOCKET NO. 2018-364

Stephen and Beverly Noller and)
Michael and Nancy Halwig,)
Complainants,)
v.)
Daufuskie Island Utility Co., Inc.,)
Respondent.)

REBUTTAL TESTIMONY OF
NANCY HALWIG
ON BEHALF OF COMPLAINANTS

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help us or restore service until we paid for everything and paid its tax. The proposed Addendum by DIUC made that clear. Only after the ORS agreed that service could be restored without affecting this proceeding would DIUC restore it. The idea of our property being lost and service being short term was not mentioned then or ever, until DIUC filed responses to this Complaint. As stated previously, the notion that this utility can decide the fate of our property is appalling and not justified in any way. We have a right to protect our property and we have a right to pursue all means available under the law to maintain it, and we are doing so. For over two years we had no use of our properties because DIUC would never provide even temporary service. The Complaint was the only means available to try to correct the very wrong treatment we have endured to get our water back, and thus the use of our property back.

Q. IN REGARD TO THE TESTIMONY ON PAGE 23, LINES 6 THROUGH 21, WHAT IS YOUR RESPONSE TO MR. MICHAEL GUASTELLA'S ALLEGATION THAT YOU BREACHED THE CSA?

A. We did not breach the agreement, which were forced into. It was not voluntary, it was extortion. Even if we had signed voluntarily, there is no mention in the agreement of all of the proposed Addendum terms. That is not just 'assembling all the paperwork'. No mention of taxes, attorney's fees or any other costs are in the CSA except the "cost of installation". The Addendum even required that we give up our right to complain to this Commission or challenge DIUC in any way. Clearly, that was not in the agreement that we had no choice but to sign. To try to shoe horn the tax and fees into it after the fact, while claiming it is being generous for not charging 'administrative costs' for the time spent by DIUC doing nothing but demanding we do everything, is galling, but beside the point that only the costs of installation were agreed to be paid by its customers in that agreement, under duress with no other alternative but to abandon our home.

Q. DOES THIS CONCLUDE YOUR PRE-FILED DIRECT TESTIMONY?

A. Yes, it does.

Q. THANK YOU.

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BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLIA
DOCKET NO. 2018-364

Stephen and Beverly Noller and)
Michael and Nancy Halwig,)
Complainants,)
v.)
Daufuskie Island Utility Co., Inc.,)
Respondent.)

REBUTTAL TESTIMONY OF
BEVERLY NOLLER
ON BEHALF OF COMPLAINANTS

service could be restored without affecting this proceeding would DIUC restore it. The idea of our property being lost and service being short term was not mentioned then or ever, until DIUC filed responses to this Complaint. As stated previously, the notion that this utility can decide the fate of our property is appalling and not justified in any way. We have a right to protect our property and we have a right to pursue all means available under the law to maintain it, and we are doing so. For over two years we had no use of our properties because DIUC would never provide even temporary service. The Complaint was the only means available to try to correct the very wrong treatment we have endured to get our water back, and thus the use of our property back.

Q. IN REGARD TO THE TESTIMONY ON PAGE 23, LINES 6 THROUGH 21, WHAT IS YOUR RESPONSE TO MR. MICHAEL GUASTELLA'S ALLEGATION THAT YOU BREACHED THE CSA?

A. We did not breach the agreement, which were forced into. It was not voluntary, it was extortion. Even if we had signed voluntarily, there is no mention in the agreement of all of the proposed Addendum terms. That is not just 'assembling all the paperwork'. No mention of taxes, attorney's fees or any other costs are in the CSA except the "cost of installation". The Addendum even required that we give up our right to complain to this Commission or challenge DIUC in any way. Clearly, that was not in the agreement that we had no choice but to sign. To try to shoe horn the tax and fees into it after the fact, while claiming it is being generous for not charging 'administrative costs' for the time spent by DIUC doing nothing but demanding we do everything, is galling, but beside the point that only the costs of installation were agreed to be paid by its customers in that agreement, under duress with no other alternative but to abandon our home.

Q. DOES THIS CONCLUDE YOUR PRE-FILED DIRECT TESTIMONY?

A. Yes, it does.

Q. THANK YOU.

1 DAUFUSKIE ISLAND UTILITY COMPANY, INC

2 DOCKET NO. 2018-364-W/S

3 Surrebuttal Testimony of John F. Guastella

4 Before the South Carolina

5 Public Service Commission

6 Testimony Prepared: February 20, 2019

7 Hearing Date: February 28, 2019

8

9 Q. Please state your name and business address.

10 A. John F. Guastella, 725 N. Highway A1A, Suite B103, Jupiter, Florida 33477.

11 Q. Have you previously submitted direct testimony in this proceeding?

12 A. Yes.

13 Q. Have you reviewed the Complainants' rebuttal testimony?

14 A. Yes.

15 Q. Do you have any comments regarding those testimonies?

16 A. The testimonies of Michael and Nancy Halwig and Beverly Noller are identical so
17 my comments are applicable to each Complainant. First, the evidence DIUC has
18 already submitted in this proceeding rebuts various unsubstantiated comments by
19 the Complainants regarding DIUC's efforts to address the erosion at Driftwood
20 Cottage Lane, installation of new mains (not a replacement of the original mains),
21 the uncertainty as to the risk of the permanency of service and the Customer Service
22 agreement. Accordingly, there is no need for me to provide more rebuttal of those
23 issues.

1 Q. What is the primary purpose of your surrebuttal testimony?

2 A. The purpose of my testimony is to respond to the Complainants' rebuttal testimony.
3 The Complainants' position is that they should be reimbursed for the constructions
4 costs they already paid and that they should not pay for the costs related to the new
5 main, but instead that DIUC should absorb those costs. This position ignores the
6 multiple rate setting requirements at issue, which I will generally outline.

7 1. In compliance with rate setting caselaw and practice, DIUC's rates
8 must be sufficient to cover the cost of providing utility service. The cost of
9 providing utility service includes reasonable operating expenses and capital costs.
10 Rate setting principles do not permit DIUC to be forced to "absorb" the cost of
11 providing service.

12 2. As I explained in my previous prefiled testimony, when determining
13 whether to engage in expending a particular capital cost a utility must consider
14 many factors, including the permanency of the customers to be served by the new
15 equipment and whether an investment in infrastructure is prudent.

16 3. In addition, DIUC's rates must be set so that they recover the cost
17 of providing service equitably among all of DIUC's customers. So, when forces of
18 nature required the installation of a new connection for the Complainants by
19 accessing DIUC's closest existing water distribution and sewer collection system,
20 it would be unequitable to force DIUC's other customers to subsidize the associated
21 capital costs, which would be far greater than the average costs of providing service
22 to DIUC's other customers. If forced to pay for the installation for the
23 Complainants, those other customers would be paying more but receiving no

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1 benefit from that new connection. So, even if the Commission were to grant the
2 Complainants' request and have DIUC incur the costs but then later include them
3 in future rates, it would not address the problem of inequitable rates because the
4 other customers would be subsidizing costs only attributable to the Complainants.

5 **Q. Before they entered into the Customer Service Agreement, did the**
6 **Complainants have opportunities to present their objections to the ORS?**

7 **A.** Yes, the ORS was made aware of this matter more than two years ago. The
8 Complainants knew that DIUC could not replace the destroyed mains because the
9 Melrose Property Owners would not restore the road. DIUC informed them that it
10 was their responsibility to install a new main to connect to DIUC's exiting mains,
11 and that DIUC would not pay for the mains in order to protect its other customers
12 from subsidizing the cost through utility rates. DIUC has never received any
13 indication from ORS that its position regarding this matter was in any way
14 improper, and as far as I know, the Complainants were never told that DIUC's
15 position was inconsistent with its application of rate setting principles. After
16 entering into the Customer Service Agreement, the Complainants initiated this
17 proceeding which asks the Commission to relieve them of the obligations they
18 undertook in construction and their commitment to cover the costs associated with
19 bringing the new equipment into the DIUC system.

20 **Q. Has DIUC incurred any costs or expenses as a result to the Complainants'**
21 **initiation of this proceeding?**

22 **A.** Yes. DIUC has had to incur significant legal and consulting costs within this
23 proceeding in order to again address a basic rate setting question of whether DIUC

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1 correctly protected its other customers from subsidizing costs solely attributable to
2 the Complainants. As of January 31, 2019, the legal fees amount to \$16,471 and
3 consulting fees, excluding any time prior to the initiation of this proceeding, amount
4 to \$22,750, for a total of \$39,221. The fees for the month of February will include
5 costs to prepare testimony submitted earlier in the month, review of the
6 Complainants' rebuttal testimony, prepare surrebuttal testimony, counsel's and
7 DIUC witnesses' attendance at the hearing, travel costs, counsel's and DIUC
8 witnesses' preparation for the hearing, and then drafting a proposed order, will add
9 another estimated \$40,000, or more. At hearing DIUC will submit invoices of the
10 costs of this proceeding and will seek recovery of them from the Complainants in
11 order to again protect the other customers from subsidizing costs solely attributable
12 to the Complainants.

13 **Q. Do you have an update regarding the permanency issue you addressed in your**
14 **earlier prefiled testimony?**

15 **A.** Yes. I am providing as Exhibit JFG-5 to this surrebuttal testimony photographs I
16 directed DIUC personnel to take on February 20, 2019. The photographs fairly and
17 accurately depict certain areas along Driftwood Cottage Lane ("DCL"), including
18 29, 33, 36, 42, and 46 Driftwood Cottage Lane. Each photograph is labelled in the
19 bottom right corner to provide additional information about the photographs. I
20 recognize the area depicted in the photographs. The images in the photographs are
21 consistent with my personal knowledge of the area. I am familiar with the area
22 depicted in the photographs, as they are located on Daufuskie Island, South

1 Carolina where DIUC operates. Additionally, DIUC has been closely monitoring
2 this area for several years, as discussed in the various witnesses' testimony.

3 **Q. What is depicted in the photographs in Exhibit JFG-5?**

4 **A.** The photographs show houses that are essentially in the ocean water at high tide. I
5 would particularly note that a section of the service lateral pipe at the Halwig
6 property is exposed and unsupported, as seen in the photograph labelled "46
7 Driftwood Cottage Lane north side."

8 **Q. Have you also reviewed the six (6) photographs included within the Answer of**
9 **DIUC filed in this case electronically on December 17, 2018?**

10 **A.** Yes. I have reviewed those photographs and the textual descriptions of the
11 photographs included in the Answer. The photographs fairly and accurately depict
12 certain areas along Driftwood Cottage Lane ("DCL"), including 29, 33, 36, 42, and
13 46 Driftwood Cottage Lane. The Answer accurately captions each of these
14 photographs. One of the photographs is an overhead photograph and map overlay
15 of the same area showing address numbers for the properties and generally showing
16 the lot lines for the depicted parcels. The image is captioned "Driftwood Lane
17 Destroyed." I recognize the area depicted in all six photographs. The images in
18 the photographs are consistent with my personal knowledge of the area. I am
19 familiar with the area depicted in the photographs, as they are located on Daufuskie
20 Island, South Carolina where DIUC operates. Additionally, DIUC has been closely
21 monitoring this area for several years, as discussed in the various witnesses'
22 testimony.

1 Q. The Complainants' prefiled rebuttal testimony includes the following
2 statement:

3 "There are lots on Driftwood Cottage Lane that could have
4 future houses on them. The state law allows houses to be built
5 between the baseline and setback lines in this area. Section 48-
6 39-290 of The Beachfront Management Act provides for new
7 homes to be built in this area. So the Driftwood Cottage Lane
8 mains can serve future customers. My reference to "all lots"
9 corrects DIUC's interpretation that we Complainants will be the
10 only customers using the mains in the future."

11 Q. Does DIUC have any information regarding the potential for houses to be
12 constructed on Driftwood Cottage Lane?

13 A. Yes. I am providing as Exhibit JFG-6 to this surrebuttal testimony pccertain
14 documents that address the baseline and setback lines in the area at issue. I have
15 included in Exhibit JFG-6 a report by the South Carolina Department of Health
16 and Environmental Control ("DHEC") entitled "Line Report: Proposed Baseline
17 and Setback Line, Daufuskie Island, October 6, 2017, Revised May 3, 2018" along
18 with a screenshot photograph that was copied from the South Carolina Beachfront
19 Jurisdiction viewer (<https://gis.dhec.sc.gov/shoreline>), as included in the Memo.
20 The photograph depicts the current and proposed base lines and setback lines. I
21 recognize the area depicted in the screenshot photograph. The image in the
22 photograph is consistent with my personal knowledge of the area. I am familiar
23 with the area depicted in the photograph, as it is located on Daufuskie Island, South

1 Carolina where DIUC operates. Additionally, DIUC has been closely monitoring
2 this area for several years, as discussed in the various witnesses' testimony.

3 Q. Can you summarize for the Commission what the Memo and photograph
4 comprising Exhibit JFG-6 show?

5 A. Yes. The following is taken from DHEC's Line Report:

6 "The baseline is the more seaward of the two jurisdictional lines.
7 Seaward of the baseline, permitted activities are limited to wooden
8 walkways, small wooden decks, fishing piers, golf courses, normal
9 landscaping, groins, activities authorized by emergency orders,
10 beach renourishment projects, and structures authorized by a special
11 permit. The setback line is the landward line of beachfront
12 jurisdiction. Between the baseline and setback line, the Department
13 exercises regulatory permitting authority for such activities as
14 habitable structures and associated infrastructure, decks, gazebos,
15 other public access structures, and sand dune management. Seaward
16 of the setback line, construction of new shore-parallel erosion
17 control structures (i.e. seawalls, revetments or bulkheads) is
18 prohibited. However, existing erosion control structures may be
19 maintained or repaired with prior authorization by the Department.

20 The Current Base Line in the photograph is the solid red line and the Current
21 Setback Line is the solid blue line. DHEC's Proposed Base Line is the broken
22 green line and the Proposed Setback Line is the broken purple line. The
23 Complainants residences are shown between the Current Base Line and the Current

1 Set Back Line. The Complainants' residences are also shown seaward of the
2 Proposed Base Line. I would also note on page 3 of DHEC's Line Report that last
3 line in the table "Transition north for 308 feet, then north for 3,032 feet to Captain
4 Monroe Lane" which includes the DCL section, shows the second highest
5 "Shoreline Change Rate, (ft/yr)" or erosion rate of -7.405 feet.

6 Q. What do you conclude from DHEC Line Report and the photograph from
7 from the South Carolina Beachfront Jurisdiction viewer
8 (<https://gis.dhec.sc.gov/shoreline>), as included in the Memo?

9 A. The erosion along DCL has been significant and, according to the DHEC
10 calculations, it is getting worse. The photograph also shows that all of the lots along
11 this area of Driftwood Cottage Lane are seaward of the Current Set Back Line and
12 seaward of the Proposed Base Line which means the restrictions on any residence
13 in that area are so significant that it is not likely any future permanent homes could
14 be built there. This information from the Memo and the photograph, further support
15 DIUC's conclusion that it should not place its other customers at financial risk by
16 paying for the construction, CIAC taxes, and related costs solely attributable to the
17 new mains for the Complainants' homes.

18 Q. Does this conclude your testimony at this time?

19 A. Yes.